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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,514	01/11/2001	Rainer Ludwig	HOE520	8392

7590 07/21/2003

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EXAMINER

RAEVIS, ROBERT R

ART UNIT PAPER NUMBER

2856

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/758,514	LUDWIG, RAINER
Examiner	Art Unit	
Robert R. Raevs	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 11 July 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-3 and 5-53 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 5-11, 13-20, 23, 26, 34, 37, 39-42, 46 is/are rejected.
- 7) Claim(s) 12,21,22,24,25,27-33,35,36,38,43-45 and 47-53 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 7/11/03 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-3, 5, 11, 13, 26, 37, 46, 39, 40, 41, 42 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO88/00511.

The reference teaches a device, including: checking element 14, motor and power supply to power the motor.

The reference's ABSTRACT does not refer to control.

As to claims 1, 11, 26, either the power supply may be deemed to control the motor, as it is the power supply that directs motor movement, or in the alternative, the reference's teaching of detecting shaft position during rotation is suggestive that the position detection has use for control, example being a feed back to control the position of the shaft.

As to claims 2, 3, 5, 13, application of the motor with a machine tool (Fig. 2) infers some level of automation in the tool's use.

As to claims 37, 46, 39, 40, 41, 42, note the structural components (esp. element 28) between bearing 32 and housing 22, the components both lending for support and sealing from the outside environment.

Claims 6-8, 10, 14, 20, 15, 23, 16-19, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 88/00511.

As to claims 6-8, 10, 18, 19, 34, it would have been obvious to employ the machine tool in an automated system because automated systems demand electrical

motors (drills) with sensors. In addition, the working times for machine tools under automated circumstances are fixed.

As to claims 14, 15, the reference's teaching of detecting shaft position during rotation is suggestive that the position detection has use for control. Example being feed back to control the position or velocity of the shaft. Automated systems demand control by use of sensors.

As to claims 20, 23, 16, 17, it is known that motors employ torque limiters.

Claims 9, 12, 21, 22, 24, 27-33, 35, 36, 47-53, 38, 43-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-3, 5-11, 13, 14, 26, 18, 34 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Huber et al.

Huber et al teach a monitoring device for checking a predefined position (or presence) of a body, including: check element 32, 34, motor 20, control 44, wherein the control device relates position with respect to encoder 38, wherein the position of the checking element relative to the "zero position" (col. 3, line 50) is measured during pivoting.

As to claims 1, 8, 11, 14, 26, 18, it takes some time for the pivoting pin 34 to travel from the "zero" position to the object being checked.

As to claims 2, 3, 5, 6, 7, 9, 13, the pin travels along a predefined course, and at a time (rate) defined by the computer 44.

As to claim 10, computers are time oriented.

As to claim 34, one of the two objects is a stop means.

Claims 37, 39, 40, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huber.

As to claims 37, 39, 40, 42, note the right hand (internally positioned) plug (of Figure 1) that contains the encoder 28, the plug of which seems to both provide a bearing surface for rod 26 and seal.

As to Applicant's REMARKS filed 7-11-03:

As to p. 11, last paragraph, the body of the claim neither calls for checking a "predefined" position or "presence of a body".

As to p. 12, last 3 lines of the first full paragraph, the claim does not call for the "sensing device" to control movement. Please note that the motor is powered by a source, and it is that power (source) that controls movement.

As to p. 12, last paragraph, rotation speed and position are a function of motor current and time.

As to p. 13, lines 1-3, the tooth plate 14 turns, and position is defined by the number of teeth.

As to p. 13, lines 3-4, isn't this just an intended use of the apparatus?

As to p. 14, lines 4-6, the reference's teeth of plate 14 are sensed/collected by a sensor that sends/transmits a signal.

As to p. 14, lines 6-8, please look at element 28 in the reference.

As to p. 14, last three lines, use of a motor at a constant speed of revolution results in fixed displacement over a fixed time.

Claims 12, 21, 22, 24, 25, 27-33, 35, 36, 47-53, 38, 43-45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevs whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

Robert

RAEVIS

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